REMARKS

Claim 33 calls for providing information for authenticating an upgrade of a second portion of firmware code, in a first portion of firmware code. The first portion includes firmware code that is not upgradeable, while the second portion includes firmware code that is upgradeable.

The only cited reference to Sudia has nothing about where any authenticating information is stored. Therefore, as a matter of law, the reference is insufficient to support the rejection.

Three different things in Sudia have been cited in the office action. The Abstract has been carefully reviewed and there is nothing therein about where the authentication data might be stored relative to the two different memory areas. Paragraph 76 has been carefully reviewed and, while there is a discussion of different memory areas, there is nothing that indicates that the information for authenticating an upgrade of the second portion is contained in the non-upgradeable first portion. Also cited is paragraph 99 which simply has four words, none of which have anything to do with the claimed invention. Finally, paragraph 248 is cited which then talks about different areas of memory, but never indicates where any authentication information is stored.

Therefore a *prima facie* rejection of claim 33 is not made out.

On the same basis, claim 34 should be in condition for allowance. Claims 35-39 should, likewise, be allowable.

For the same reason, claims 40-42 should be allowable.

Claim 1 calls for retrieving a second key from a firmware program if the public key is not valid. The Examiner suggests that this is met by some backup key. But the backup key is not obtained if the public key is not valid.

For the same reason, claim 27 and its dependent claims should be in condition for allowance.

Respectfully submitted,

Date: August 3, 2006

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